

The Real Scoop on How the State Cleanup Funds Work



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What Happens After the Spill?

- Must Report Spill to DES
- Hire Contractor for Initial Response
- DES Issues Letter of Responsibility
- Hire Consultant for Site Investigation and Remediation
- Submit Workscopes/Claims



Purpose of Funds

- “Excess Insurance” for First-Party Corrective Action and Third-Party Damage Costs
- First-Party Corrective Action Means work required under Env-Ws 412 or Env-Wm 1403
- Third-Party Damage Means “Bodily Injury” or “Property Damage”



Covered Facilities

- USTs and ASTs Storing Gasoline or Diesel
(\$1,500,000 for costs after 7/1/88)
- ASTs Storing Heating Oil
(\$500,00 for cost after 10/1/92)
- Facilities Storing Virgin or Used Motor Oil
(\$500,000 for costs after 7/1/95)
- Facilities Storing Heating Oil for On-Premise-Use
(\$500,000 for costs after 10/1/92)





Deductibles

On-Premise-Heating : \$100 after 7/1/97

All Other Facilities:

After 7/1/95		Before 7/1/95	
Facilities Owned	Deductible per Facility per Spill	Facilities Owned	Deductible per Facility per Spill
1 to 3	\$5,000	1	\$5,000
4 to 9	\$10,000	2 to 19	\$20,000
10 to 19	\$20,000	20 or More	\$30,000
20 or More	\$30,000		



Eligibility

- Must Achieve Compliance with Rules for Facility Operations
- Eligibility is Determined For Each Spill
- Must Maintain Compliance to be Eligible for Future Spills
 - UST Permit-to-Operate will be Revoked
 - Administrative Order to Cease AST Operations

How is Eligibility Determined?

- UST Facilities:
 - Substantial compliance with Env-Wm 1401 rules
- AST Facilities:
 - Registered with DES
 - Substantial Compliance with Env-Wm 1402
 - Federal SPCC
 - Fire Codes
- Non-Regulated OPUF:
 - Vent alarm for all facilities
 - NFPA 31 after 8/28/93



Who Qualifies for the Funds?

- Owners of Active or Permanently Out-of-Service Facilities
- Current Facility Owner
- Former Facility Owner
- Certain Property Owners
- Coverage is Transferable
 - Former Owner of Active Facility
 - Property Transferee for Permanently Closed Facility



Workscope Process

- Scope and Costs Must Be Approved by DES Before Work Starts
- Pre-approved Not-to-exceed Budgets and Scopes for Standard Work
- Site-Specific Scope and Budget for Complex Projects
- Prevailing Market Rates Establish Acceptable Costs
- 16 Day Turnaround Time
- 54 Workscopes Reviewed per Month



Claims Process

- Qualified Facility Owners, Landowners and Property Transferees Can Submit Claims
- Direct Payment to Consultant or Contractor (Applicant)
- Reimbursement of Invoices Costs
- Deliverable Must Meet Performance Standard
- 43 Day Average Turnaround
- 240 Claims Reviewed per Month
- \$1.4 Million Approved per Month

REQUEST FOR REIMBURSEMENT AUTHORIZATION - RSA 146-D, RSA 146-E, RSA 146-F

A. AUTHORITY FOR SUBMITTAL

(1) Type of Facility (check one): Bulk Motor Fuel (LUST) ☐ Motor Fuel/UST Facility (LUST) ☐ Motor Oil Storage (MOSH) ☐ Bulk Fuel Oil (OURL) ☐ On Premise Use Fuel Oil (OUPU) ☐ (2) Type of Authorization (check one): First Party Costs (Site Cleanup) ☐ Third Party Costs (Contract Agreement) ☐ (3) Paid Out-of-Pocket Total: _____

B. FACILITY INFORMATION

(1) Facility Name (or residential owner): _____ (2) Facility Address: _____ (3) Facility Phone: _____ (4) Is this Facility Active or Permanently Closed? ☐ (5) NDEDES Facility Registration Permit No. (if A, for residential): _____ (6) NDEDES Property No.: _____ (7) Date of Discharge Discovery: _____

C. OWNER INFORMATION (See Instructions, Section A-1)

(1) Owner's Name: _____ (2) Mailing Address: _____ (3) Daytime Phone: _____ (4) Are you a new owner since last authorization? ☐ (5) Site of facilities owned on 10/1/98 (if not, please check above): ☐ (6) Is insurance available under other insurance? ☐ (7) Yes, Date of Purchase: _____ (8) No ☐ (9) Not Applicable for OUPU ☐ (10) Yes ☐ No ☐ Partially Discontinued ☐

D. OWNER'S SIGNATURE AND APPROVAL

I swear under penalty of perjury that the facility referenced above is correctly so fully compliant with all applicable local, state and federal requirements. I understand that I shall no longer be eligible for reimbursement if full compliance is not maintained. I agree that I am responsible for or "discharge" to be applied against any amounts reimbursed to me from the fund, if not already satisfied. If actual reimbursement is made to an "Applicant", I understand that I may be held for the deductible amount and that I shall pay said amount within 30 days of the filing date, or shall arrange for periodic payments. I understand the procedure through which only eligible events become coverage.

I declare under penalty of perjury that the representations made in this Request for Reimbursement Authorization are to the best of my knowledge true and correct.

I agree to reimburse the fund for any payments made to me based upon incorrect information on this form, or incorrect claim submitted information.

ONLY ORIGINAL SIGNATURE ACCEPTED _____ Owner's Signature - Date Signed _____

E. REIMBURSEMENT CLAIM INFORMATION AND APPROVAL

(1) Complete this Request for Reimbursement Authorization form and include it with your first claim submittal. A separate authorization is needed for each facility type for the property costs, and for each facility type for the cleanup damage costs. A new authorization is needed for facility property extension has changed. Include a copy of the property transfer deed and a copy of the NDEDES facility registration form, if applicable. Subsequent first-party cost claims may require the applicable information based on the complete immediate letter.

(2) Do not submit an authorization request if the facility is not in compliance with applicable regulations.

(3) Do not submit a claim for costs incurred before discharge discovery, for costs incurred under cleanup discovery, for costs associated with facility closure or reopening, or for work in progress - unless authorized by NDEDES.

(4) Number each claim for each facility type in sequence. Refer to this request number when making a modification. (See supplemental form sample)

(INSTRUCTIONS CONTINUED ON P. 2)





Administrative Structure

- Oil Fund Disbursement Board
 - Membership: Legislature, Petroleum Industry, State Agencies, General public
 - Monthly Meetings: Appeals, Sets Policies, Approves Rules
 - Subcommittee: Approves Large Claims, Meets with Advisory Committee



Administrative Structure

- Department of Environmental Services
 - Approves claims less than \$50,000
 - Approves worksopes
 - Approves certain waivers
- Department of Justice
 - Legal Council
 - Intervenes in Third-Party Cases
- Department of Safety
 - Collects Fees
 - Reviews Penalty & Interest Waivers
 - Conducts Audits



Administrative Structure

- Fund Advisory Committee
 - Membership
 - Meet Quarterly (Minutes of Meeting on WEB)
 - Provide Input to Board Documents
 - Review Need for New Board Policies
 - Provide Input to Streamline Claims and Workscopes Processes

Program Accomplishments

- \$105 million Reimbursed to Facility Owners
- 970 Cleanups Completed
- 1006 Cleanups In-Progress
- Abandoned Sites Returned to Productive Use

